

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 22-42888

JAMES MURRAY BEY, JR.,

Chapter 13

Judge Thomas J. Tucker

Debtor.

**ORDER DENYING FEE APPLICATION WITHOUT PREJUDICE,
AS PREMATURE**

This case is before the Court on a fee application filed on September 30, 2022 by the attorney for the Debtor, entitled “First Application for Award and Approval of Payment of Pre-Confirmation Attorney Fees as an Administrative Expense of Chapter 13 Plan Pursuant to L.B.R. 9014-1 and 2016-2(b) (E.D.M.) From September 30, 2021-September 22, 2022” (Docket # 36, the “Fee Application”). On October 27, 2022, the Debtor’s attorney filed a Certification of Non-Response, stating that no one had filed an objection to the Fee Application.

The Court will deny the Fee Application, without prejudice as stated below, as premature. It is premature because no Chapter 13 plan has been confirmed yet. The case is currently scheduled for an adjourned confirmation hearing to be held on December 15, 2022. (*See Order at Docket # 40.*)

The Fee Application does not demonstrate good cause for the Court to allow fees for the Debtor’s counsel at this time, when no Chapter 13 plan has been confirmed yet. *See generally* 11 U.S.C. § 1326(a)(2). Even if the Court granted a fee application for the Debtor’s counsel now, the Chapter 13 Trustee could not disburse any money to the Debtor’s counsel from funds on hand at this time, under § 1326(a)(2).

Accordingly,

IT IS ORDERED that the Fee Application (Docket # 36) is denied.

IT IS FURTHER ORDERED that this Order is without prejudice to the right of the Debtor's counsel to file a new fee application, after one of the following events has occurred in this case: (1) a plan has been confirmed; (2) the case has been converted to Chapter 7; or (3) the case has been dismissed.

Signed on October 28, 2022



/s/ **Thomas J. Tucker**

Thomas J. Tucker
United States Bankruptcy Judge